vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3022 OF 1997

Prof. R.B. Singh
residing at A 4 Sukh Sagar
Mahim Road, Palghar - 401 404 ... Petitioner

V/s.

1. The Principal,
Sonopant Dandekar Arts College
V.S. Apte Commerce College
and M.M. Mehta Science College
and R.H. Save Arts, C.Bhanushali
Commerce and B.A. Dandekar Science
Junior College, Palghar
Dist.: Thane-401 404

2. The Chairman
Sonopant Dandekar Shikshan
Mandali, Palghar, Dist.:Thane

3. University of Bombay, Bombay

4. State of Maharashtra
Education and Employment Deptt.
Mantralaya, Bombay ... Respondents

Mr.E.K Sashran for Petitioner
Mrs.P.S. Cardozo, AGP, for Respondent No.4

CORAM: **S.B. MHASE &**
SMT.NISHITA MHATRE, JJ.

DATED: **FEBRUARY 20, 2007**

ORAL JUDGMENT (PER S.B. MHASE, J.):

. The petitioner has approached this Court under Article 226 of the Constitution of India for appropriate or direction directing the Respondents to treat the Petitioner on probation right from the time his first appointment i.e., 3.7.1990 and confirmed in the post of

Lecturer in Zoology in the College of Respondent Nos.1 and 2 and further directions to treat the Petitioner as if he has been in continuous employment on probation from 3.7.1990 and confirm in the post of permanent Lecturer w.e.f. 3.7.1992 and other consequential benefits, namely, increments, seniority, etc. The Petitioner was appointed as a Lecturer in Zoology with Respondent Nos.1 and 2 in a reserved post since the reserved candidate was not available. The Petitioner is an open candidate and therefore, the petitioner was initially appointed for a period of one year. Thereafter the Petitioner is appointed every year as against the reserved post and every year the management has followed the procedure of issuing an advertisement of the said post and having found that the reserved candidate is not available the Petitioner was appointed. Thus, on the date of presentation of the petition, the Petitioner has worked six years with Respondent Nos.1 and 2 as a Lecturer in Zoology and therefore, the Petitioner was entitled to have the benefit of various Government Resolutions and the Circular issued by the Bombay University bearing despatch No.Madak/12/319/1996 i.e., in short that the respondents who have declared the said vacancy as open vacancy and who have offered the benefits of probationer from the date of his initial appointment and ought to have confirmed him as against

the said post. Since the said benefit was not extended, the Petitioner has approached this Court. At the time of admission of this Petition, by order dated 8.7.1997, ad-interim relief in terms of prayer clauses (e) and (f) was granted and therefore, the Petitioner is continuously in service with Respondent Nos.1 and 2.

2. The point involved in this writ petition is no more res integra for us. The same has been considered by this Court in Writ Petition Nos.850 of 1995 to 853 of 1995 and 764 of 2000 and by a common judgment rendered in the above referred writ petitions dated September 24, 2001, it has been held that the Petitioners in those Petitions are entitled to the benefit of regularisation of their services. This Court has issued directions to the Respondent Institutions in the said writ petitions to complete the process of dereservation of the post in question within three months and also further directed that upon dereservation of the said post the appointment shall be made as per the guidelines provided in the said circular dated 17.7.1996 by Respondent Nos.1 to 3 within 3 months therefrom.

3. We follow the same judgment. We find that the present Petitioner is also entitled to get the benefit of the circular dated 17.7.1996 and get regularisation

of the services. Without entering into details, we have noted that the facts involved in the present petition and the facts involved in the above referred petitions are one and the same including the point of law and, therefore, we pass the same judgment and issue the following directions:

i) Respondent Nos.1 and 2 shall complete the process of dereservation of the post in question within three months from today.

ii) Upon dereservation of the said post, the Petitioner's appointment shall be made as per the guidelines provided in the said circular dated 17.7.1996 by the Respondents within three months therefrom.

4. Apart from these directions, we further direct that all other consequential benefits including fixation of seniority, increments, provident fund, etc. should be extended to the Petitioner.

5. Rule made absolute in the above terms. Writ Petition is disposed off accordingly.

(NISHITA MHATRE, J.) (S.B. MHASE, J.)